

Lofgren Calls for a Full Hearing on All Proposed Constitutional Amendments on the Continuity of Cong

The Judiciary Committee should not markup a constitutional amendment without a thorough review

Media Contact: David Thomas, 202.225.3072

Washington, DC – Congresswoman Zoe Lofgren delivered the following statement today during the House Judiciary Committee markup of H J Res 83, an amendment to the Constitution of the United States offered by Congressman Brian Baird (D-WA) regarding the appointment of individuals to fill vacancies in the House of Representatives.

“Two weeks ago, the House of Representatives passed H.R. 2844, The Continuity in Representation Act of 2003, which was written and offered by Chairman Sensenbrenner. This bill provides for the expedited special election of new Members of Congress to fill seats left vacant in ‘extraordinary circumstances.’ ‘Extraordinary circumstances’ occur when the Speaker announces that vacancies in the representation from the States in the House exceed 100. Under this bill, when such ‘extraordinary circumstances’ occur, a special election must be called within 45 days.

“This bill was an important first step in addressing how the House continues to function in the event of a catastrophe, and that is why I voted in support of the bill.

“However, there is a more fundamental issue, which still needs to be addressed. What happens in the 45 days between a disaster that eliminates the House of Representatives and the holding of these special elections?

“Under H.R. 2844, the House of Representatives would have no way to function for a month and a half. Without the House, there can be no Congress. That is simply unacceptable and needs to be addressed.

“Several Members have introduced constitutional amendments that would address this problem. Congressman Baird has offered an amendment, which is scheduled to be marked up at today’s meeting. This will represent the Committee’s first opportunity to carefully examine the amendment.

“I have introduced a constitutional amendment (H J Res 96) that takes a different approach from the Baird proposal. My proposal would provide for the appointment of temporary members to the House to serve during any period when 30% or more of the seats of the House are vacant. These temporary Members of the House would serve until a special election is held and for a period not to exceed 6 months.

“Our colleagues John Larson and Dana Rohrabacher have also introduced amendments on continuity that approach this issue differently from my proposal or Congressman Baird’s amendment.

“All four of these proposals are thoughtful, and each has merit. This is a complex issue, and none of the amendments, I think, are quite ready for our approval, but they do command our attention. All deserve to be debated and considered by the Members of this Committee.

“Today, some may point out that there was a hearing on a constitutional amendment offered by Congressman Baird in the 107th Congress. That is true, but the amendment on today’s agenda is significantly different from the Baird amendment considered 2 years ago. This is a new amendment that was first introduced last December.

“A distinguished commission that included former Speakers Foley and Gingrich, Lloyd Cutler and former Senator Alan Simpson favors a constitutional amendment. I am not suggesting that we should simply accept their recommendations. But at the very least, we should consider and evaluate their findings before we cast a vote that will define the stability or instability of the country in the event of a national crisis.

"Unfortunately, the Chairman has not scheduled a hearing on any of these amendments so we will not have the benefit of hearing from scholars, former speakers and other distinguished leaders on this issue. These various approaches will not be fully reviewed and debated by the members of this Committee.

"Today we are being asked to markup an amendment to the United States Constitution but we have not even had one hearing on the amendment.

"How often in the history of this Committee has a constitutional amendment been reported out without so much as a single hearing?

- Consider, for example, the constitutional amendment to protect the rights of crime victims. That particular amendment was introduced in the 108th, 107th, 106th, 105th and 104th Congress; and on each occasion, prior to markup, it was the wisdom of this Committee to schedule hearings.

- Also, consider the Committee's treatment of the constitutional amendment to prohibit flag burning. A proposal on this issue was introduced in the 108th, 106th, 105th and 104th Congress and each time the Committee undertook hearings.

- Finally, in the 105th and 104th Congress, a constitutional amendment was introduced to limit the federal government's ability to raise taxes, and hearings were permitted on each occasion.

- The majority has already seen fit to schedule a series of five hearings, over the course of several months, to discuss the issue of same-sex marriage.

"It only makes sense that this Committee should always hold at least one hearing before marking up an amendment to the U.S. Constitution. This issue of the Continuity of Congress should not be an exception. It is vitally important to our democracy, and requires more deliberation.

"The Committee should postpone consideration of this amendment for two weeks. This extra time will allow the Committee to schedule a hearing on this issue next week. At this hearing all of the amendments would get a thorough vetting. The Members of this Committee would have the opportunity to hear from experts and questions them on each of the four proposed amendments on continuity before marking up a constitutional amendment.

"I hope this Committee, with its enormous responsibilities over the framework of this institution, will recognize that we should not rush to judgment on this critical issue.

"I do not think it is an unreasonable request for this Committee to delay consideration of the Baird amendment for 2 weeks to give us the opportunity to hold a hearing on the matter.

"Mr. Chairman, I move to postpone consideration of this proposal, H.J. Res. 83, until Thursday, May 20, 2004."